

Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

**CHAPTER 207**

# **HOUSE BILL 2217**

AN ACT

AMENDING TITLE 13, CHAPTER 37, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3723; RELATING TO UTILITY SERVICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 37, Arizona Revised Statutes, is amended  
3 by adding section 13-3723, to read:

4 13-3723. Obtaining utility service fraudulently;  
5 classification; definitions

6 A. IT IS UNLAWFUL FOR ANY CUSTOMER OR PERSON TO INTENTIONALLY DO ANY  
7 OF THE FOLLOWING:

8 1. MAKE A CONNECTION OR RECONNECTION WITH PROPERTY THAT IS OWNED OR  
9 USED BY A UTILITY TO PROVIDE UTILITY SERVICE WITHOUT THE AUTHORIZATION OR  
10 CONSENT OF THE UTILITY.

11 2. PREVENT A UTILITY METER OR OTHER DEVICE THAT IS USED TO DETERMINE  
12 THE CHARGE FOR UTILITY SERVICES FROM ACCURATELY PERFORMING ITS MEASURING  
13 FUNCTION.

14 3. TAMPER WITH PROPERTY THAT IS OWNED OR USED BY A UTILITY.

15 4. USE, RECEIVE OR OTHERWISE DIVERT UTILITY SERVICES WITHOUT THE  
16 AUTHORIZATION OR CONSENT OF THE UTILITY IF THE CUSTOMER OR PERSON KNOWS OR  
17 HAS REASON TO KNOW OF THE UNLAWFUL DIVERSION, TAMPERING OR CONNECTION.

18 5. DIVERT OR CAUSE TO BE DIVERTED UTILITY SERVICES BY ANY MEANS.

19 B. THERE IS A REBUTTABLE PRESUMPTION THAT THE CUSTOMER OR PERSON  
20 INTENTIONALLY VIOLATED AN ACT SPECIFIED IN THIS SECTION IF ANY OF THE  
21 FOLLOWING OCCURS:

22 1. AN INSTRUMENT, APPARATUS OR DEVICE THAT WAS INSTALLED TO OBTAIN  
23 UTILITY SERVICE WITHOUT PAYING THE FULL CHARGE IS FOUND ATTACHED TO THE METER  
24 OR OTHER DEVICE THAT IS USED TO PROVIDE THE UTILITY SERVICE ON THE PREMISES  
25 CONTROLLED BY THE CUSTOMER OR BY THE PERSON WHO USES OR RECEIVES THE UTILITY  
26 SERVICE.

27 2. A METER WAS ALTERED, TAMPERED WITH OR BYPASSED RESULTING IN NO  
28 MEASUREMENT OR AN INACCURATE MEASUREMENT OF UTILITY SERVICES.

29 3. THE CUSTOMER, PERSON OR OWNER IS AN OCCUPANT OF THE PREMISES OR HAS  
30 AN ACCESS TO THE SYSTEM FOR DELIVERY OF THE SERVICE TO THE PREMISES AND  
31 RECEIVES A BENEFIT FROM TAMPERED OR BYPASSED EQUIPMENT.

32 C. THE PRESUMPTION PROVIDED IN SUBSECTION B SHIFTS THE BURDEN OF GOING  
33 FORWARD WITH THE EVIDENCE AND DOES NOT SHIFT THE BURDEN OF PROOF TO THE  
34 DEFENDANT.

35 D. OBTAINING UTILITY SERVICE FRAUDULENTLY IS A CLASS 6 FELONY.

36 E. FOR THE PURPOSES OF THIS SECTION:

37 1. "CUSTOMER" MEANS THE PERSON IN WHOSE NAME A UTILITY SERVICE IS  
38 PROVIDED.

39 2. "DIVERT" MEANS TO CHANGE THE INTENDED COURSE OR PATH OF  
40 ELECTRICITY, GAS OR WATER WITHOUT THE AUTHORIZATION OR CONSENT OF THE  
41 UTILITY.

42 3. "RECONNECTION" MEANS THE RESTORATION OF UTILITY SERVICE TO A  
43 CUSTOMER OR PERSON AFTER SERVICE HAS BEEN LEGALLY DISCONNECTED BY THE  
44 UTILITY.

1           4. "TAMPER" MEANS TO REARRANGE, DAMAGE, ALTER, INTERFERE WITH OR  
2 OTHERWISE PREVENT THE PERFORMANCE OF A NORMAL OR CUSTOMARY FUNCTION,  
3 INCLUDING ANY OF THE FOLLOWING:  
4           (a) CONNECTING ANY WIRE, CONDUIT OR DEVICE TO ANY SERVICE,  
5 DISTRIBUTION OR TRANSMISSION LINE THAT IS OWNED OR USED BY A UTILITY.  
6           (b) DEFACING, PUNCTURING, REMOVING, REVERSING OR ALTERING ANY METER  
7 OR ANY CONNECTIONS TO SECURE UNAUTHORIZED OR UNMEASURED UTILITY SERVICE.  
8           (c) PREVENTING ANY METER FROM PROPERLY MEASURING OR REGISTERING.  
9           (d) KNOWINGLY TAKING, RECEIVING, USING OR CONVERTING TO PERSONAL USE  
10 OR THE USE OF ANOTHER PERSON ANY UTILITY SERVICE WITHOUT AUTHORIZATION OR  
11 CONSENT.  
12           (e) CAUSING, PROCURING, PERMITTING, AIDING OR ABETTING ANY PERSON TO  
13 DO ANY OF THE ACTS LISTED IN THIS PARAGRAPH.  
14           5. "UTILITY" MEANS ANY PUBLIC SERVICE CORPORATION, AGRICULTURAL  
15 IMPROVEMENT DISTRICT OR OTHER PERSON THAT IS ENGAGED IN THE GENERATION,  
16 TRANSMISSION OR DELIVERY OF ELECTRICITY, WATER OR NATURAL GAS, INCLUDING THIS  
17 STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE.  
18           6. "UTILITY SERVICE" MEANS THE PROVISION OF SERVICES OR COMMODITIES  
19 BY THE UTILITY FOR COMPENSATION.

APPROVED BY THE GOVERNOR MAY 10, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2004.